

HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.21060 OF 2006

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DATE: 09-11-2006

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Between:

R. Nagaraja Reddy

.. Petitioner

AND

The District Collector (Cooperative Wing),
Nellore & 4 others

.. Respondents

ORDER:

This Writ Petition is filed seeking a Writ of *Mandamus* declaring resolution No.2 dated 20-09-2006 of the members of the managing committee of Anantasagaram P.A.C.S., Anantasagaram Mandal, Nellore District wherein one Mettukuru Krishna Reddy S/o. Ramana Reddy, who is a voter of Constituency No.8 was co-opted in the vacancy of Constituency No.13 of Anantasagaram P.A.C.S. and consequent election of said Krishna Reddy as president of Anantasagaram P.A.C.S. by way of resolution No.3 dated 20-09-2006 as arbitrary and illegal.

It seems, at the relevant point of time, petitioner was vice-president and acting president of Anantasagaram P.A.C.S. While so, he ordered for conducting elections to the vacancy of

Constituency No.13 to be held on 20-09-2006. However, he issued another notice dated 19-09-2006 stating that due to law and order problem, the elections to be held on 20-09-2006 have been postponed without indicating any further date. It appears that in spite of notice dated

19-09-2006 postponing the elections, all the members of the managing committee gathered on 20-09-2006 at the schedule time and elected one Mettukuru Krishna Reddy, who is a voter of Constituency No.8, and co-opted to Constituency No.13 of Anantasagaram P.A.C.S., Anantasagaram Mandal, Nellore District.

The grievance of the petitioner is that he being the in-charge president and vice-president and as a competent authority, contemplated to conduct elections by way of issuing election notice, but on 19-09-2006 in view of some altered circumstances and law and order problem visualized by him, he ordered for postponement of the elections, therefore, conducting of elections on 20-09-2006 is arbitrary and illegal. There was no competent person to preside over the elections and the same is contrary to Rule 22(A)(5)(d) of A.P. Co-operative Societies Rules, 1964 (for short 'the Rules 1964').

Respondent No.3 filed a detailed counter affidavit denying the allegations made by the petitioner.

Firstly, it is asserted that Rule 22(A)(5)(d) of the Rules, 1964 is no more on the statute book in pursuance of the

amendment dated 28-09-2005 vide G.O.M.S. No.375 of Agriculture and Cooperation-IV. Secondly, learned counsel for the petitioner states that conducting of elections on 20-09-2006 is arbitrary and illegal. There was no competent person to preside over the said election, therefore on this ground also the election held on 20-09-2006 electing M. Krishna Reddy, S/o. Ramana Reddy, voter of Constituency No.8, co-opted as a member of Constituency No.13, is arbitrary and illegal.

May be, there was no competent person to preside over the election, but elections have already been held, as notified by the petitioner, on 20-09-2006. There was no proper explanation furnished by the petitioner for postponing the elections, on 19-09-2006. Any irregularity committed by any election authority can be challenged in an Election Petition. Even a challenge can be made to the authority of the person, who conducted the election, in an Election Petition.

That apart, even if the election notification issued or the elections conducted is not proper under the law, it is always open for the aggrieved party to agitate the matter before the Election Tribunal by way of filing an Election Petition as required under Section 61(3) of the Andhra Pradesh Cooperative Societies Act, 1964. Further, disputed and contentious issues raised herein cannot be adjudicated in a Writ Petition. Thus, the Writ Petition is devoid of merits and is liable to be dismissed.

The Writ Petition is accordingly dismissed. No order as to

costs.

However, the petitioner is at liberty to approach the Election Tribunal by filing an election petition under Section 61(3) of the Co-operative Societies Act, 1964 and work out his remedies. No costs.

C.V. RAMULU, J

Date:09-11-2006.

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